

*Next Meeting – Monday, January 7, 2008 – 2 PM  
Appoquinimink State Service Center  
Middletown, Delaware*

**STATE COUNCIL FOR PERSONS WITH DISABILITIES  
BRAIN INJURY COMMITTEE  
October 1, 2007 – 2:00 PM  
Appoquinimink State Service Center  
Middletown, DE**

**PRESENT:** John Goodier, Chair; Brian Hartman, Co-Chair; Dr. Jane Crowley, A.I. DuPont Hospital; Linda Heller, DSAAPD; Tony Horstman, SCPD; Dr. Dan Keating, Bancroft Neurohealth; Lora Lewis, DPH; Collette McKee, BIAD; Dr. Bradley Meier, DPC; Tom Parvis, DVR; Al Rose, DDC; Mary Soligo, Christiana Counseling; Wendy Strauss, GACEC; Kyle Hodges, Staff and Linda Bates, Support Staff

**ABSENT:** Ray Brouillette, Easter Seals; Mike Merrill, VR/U.S. DVA; Virginia Corrigan, Christiana Care; Laura Cygan, DPH; Aaron Deede, Consumer; Ellen deVrind, Christiana Counseling; Janet Leitch, Consumer; Chris Long, DDDS; Beth Mineo Mollica, DATI; Ann Phillips, Parent; Dawn Stewart, Healthy Living and Liz Schantz, Consumer

**CALL TO ORDER**

The meeting was called to order at 2:15 PM.

**APPROVAL OF MINUTES**

Motion was made, seconded and approved to accept the September 10, 2007 meeting minutes as submitted.

**AGENDA ADDITIONS/DELETIONS**

- Lora will be addressing the Grantee Conference that she attended. And also the TBI Action Plan that was done in 1998.

**BUSINESS**

**PATBI Report**

**I. DOE Final ESY Regulations [11 DE Reg. 181 (August 1, 2007)]**

Consistent with Brian's August and September PATBI reports, the DOE adopted a regulation in August which effectively eliminates the automatic eligibility of students with TBI (and deaf-blindness; autism; TMH; SMH) for summer school. Brian recommended that the SCPD prepare a letter to the Governor (and her counsel) and House and Senate Education Committee members. The GACEC issued an August 30 letter to elected officials. The SCPD issued the attached September 21, 2007 memo to elected officials which was endorsed by the following

organizations: DD Council; Brain Injury Association; Easter Seal; DVR; Autism Society of Delaware; Parent Information Center; Arc-DE; and the DLP. Follow up in October would be appropriate.

Brian suggested that the GACEC follow-up on the letter informally with DOE to see if they had changed their minds. If not, then go to the Governor and see if she is willing to prompt DOE to change the regs. Wendy will follow-up with Brian on her findings.

## **II. DDDS Eligibility Regulation**

Consistent with Brian's August and September PATBI reports, the Division of Developmental Disabilities Services published a proposed eligibility regulation in July which deletes the existing authorization to cover individuals with brain injury. The DLP spearheaded the effort to restore "brain injury" and "other neurological disorders" to the proposed eligibility standards. The Division planned to consider the comments received in July and reissue a revised proposed draft in September. However, the September issue of the Registry of Regulations did not include a new draft. At the September 18 meeting of the Advisory Council to DDDS, its Deputy Director noted that a revised proposed regulation had been submitted for publication in the October issue of the Registry of Regulations. The Deputy Director noted that it will include a "grandfather" provision as recommended by the SCPD and other organizations. As of Friday, September 28, the October version of the Registry had not yet been published on the State website. After publication, Brian intends to provide a critique of the new proposal to the SCPD P&L Committee which meets on October 11.

Kyle provided the October regulations today. On page 3, 1.3.5 seems to now include brain injury or other neurological conditions which was a concern. Brian said that at the next Policy and Law meeting on October 11, this will be addressed. Linda noted that DSAAPD may have some comments. Brian noted that earlier Child Mental Health had been prompted for comments. Kyle will send Susan Cycyk an e-mail to find out if they have commented and to let them know it had been republished in the October regs and that SCPD will be reanalyzing the October version.

## **III. NCC Property Tax Abatement Ordinance [07-131]**

In September, the SCPD and other organizations endorsed Brian's critique of a NCC Ordinance changing the standards for property tax and sewer exemptions for senior citizens and persons with disabilities. This critique was included with the September PATBI report. Given a groundswell of communication from the public, that ordinance was withdrawn hours before a scheduled vote. A new ordinance (No. 07-131) was introduced on September 25 in anticipation of a vote on October 9. On September 28 Brian forwarded the following critique of the new ordinance to the SCPD, DDC, and GACEC. Included are the attachments to that critique for facilitated reference.

## MEMORANDUM

**To: SCPD P&L Committee**

**From: Brian Hartman**

**Re: NCC Property Tax Abatement Ordinance [07-131]**

**Date: September 28, 2007**

I am providing my preliminary analysis of the above ordinance on an expedited basis since a NCC Council vote is expected on October 9 and the next P&L Committee meeting is scheduled on October 11. I recommend that comments be submitted well in advance of the October 9 County Council meeting since I am recommending some amendments.

In September, the SCPD and other organizations submitted comments on a predecessor ordinance intended to reduce property tax and sewer exemptions for senior citizens and persons with disabilities. Consistent with the attached September 12 News Journal article, that ordinance [07-114] was withdrawn after a groundswell of communication from the public. The new ordinance [07-131] was introduced on September 25 in anticipation of a vote on October 9. For background, I am attaching a copy of the ordinance, September 25 press release, September 24 News Journal article, and September 25 News Journal article.

The new ordinance does reflect the SCPD's influence. The attached September 24, 2007 News Journal article recites as follows:

In a nod to a request from the State Council for Persons with Disabilities, Smiley is offering to raise the income limit for disabled homeowners to \$50,000 so they can have parity with seniors.

To facilitate review, I am providing the following tables which highlight the most significant changes between existing law and the proposed ordinance.

The current ordinance reflects the following standards:

	Residency Duration	Income Cap (excludes Social Security & RR Retirement)	Property Tax Assessed Value Exemption	Cap on "Expensive" Real Property
Elderly	Resident as of July 1 of Fiscal Year	\$50,000 individual \$50,000 couple	\$50,000	None

Persons with Disability	Resident as of July 1 of Fiscal Year	\$40,000 individual \$40,000 couple	\$40,000	None
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Under the new ordinance, persons currently qualifying for the above exemptions would be unaffected, i.e. grandfathered. Indeed, even if a “grandfathered” taxpayer moved to a new house, the old exemption limits would apply to the new house. For new applicants, the following standards would apply:

	Residency Duration	Income Cap (excludes Social Security & RR Retirement)	Property Tax Assessed Value Exemption	Cap on “Expensive” Real Property
Elderly	4 years	\$50,000 individual \$50,000 couple	\$32,000	\$125,000 Assessment (equates to \$400,000 market value per article)
Persons with Disability	4 years	\$50,000 individual \$50,000 couple	\$32,000	\$125,000 Assessment (equates to \$400,000 market value per article)

Sewer bills would also be affected. According to an August 7 News Journal article, persons qualifying for an exemption currently pay a flat sewer fee of \$36.00 annually. This is based on a fee adopted by County Council. This approach would be continued for “grandfathered” taxpayers. For new applicants, the elderly and persons with disabilities would be billed 50% of total sewer charges or a minimum bill set by Council, whichever is greater. See Ordinance 07-114, Section 3, Par. G.

I have the following observations to share if County Council intends to pursue enactment of this ordinance.

First, the “grandfather” provision merits endorsement. The elderly and persons with disabilities are often on fixed incomes who have grown to reasonably rely on the current exemptions.

Second, the new ordinance restores equity by adopting the same standards for the elderly and persons with disabilities. This equity had been displaced by a 2004 ordinance. This restoration merits endorsement.

Third, the ordinance does result in an anomaly. “Grandfathered” taxpayers with disabilities would still be subject to the \$40,000 income cap. New applicants with disabilities would only be subject to a \$50,000 income cap. Thus, if a “grandfathered” individual or couple’s countable income increased from \$39,000 to \$41,000 on or after tax year 2008, the “grandfather” exemption would be lost. It would be preferable to amend the ordinance to raise the income cap to \$50,000 for “grandfathered” persons with disabilities.

Fourth, Section 1, Proposed Section 14.06.303B2, incorporates an existing supplemental exemption for certain taxpayers who have lost limbs. Disability must be “due to the loss or loss of the use of both lower extremities or both upper extremities or both an upper and lower extremity such as to preclude locomotion without the aid of a brace, crutch, cane, or wheelchair and such as to require a home with special fixtures.” While the concept underlying this supplemental exemption is salutary, the actual language could be improved. For example, it would literally not cover someone who was born without use of limbs since there has been no “loss”. Moreover, it would literally not cover someone using a “walker”, scooter, or other mobility device. I recommend the following substitute:

...(D)ue to the loss or inability to use both lower extremities or both upper extremities or both an upper or lower extremity such as to significantly impair locomotion without the aid of a brace, crutch, cane, wheelchair, or other assistive technology and such as to require a home with special fixtures.

Parenthetically, the term “assistive technology” is well known and defined in law. It would encompass walkers, scooters, etc. Compare 29 U.S.C. 3002(a); 20 U.S.C. 1401(1); and Title 16 Del.C. Sec. 9403(3)b.

Brian recommends that the SCPD consider sharing the above observations and recommendations with policymakers. Motion was made, seconded and approved to support Brian’s recommendations. Linda Heller abstained. Due to the timeline, Kyle will run this by the SCPD Executive Committee.

### **Family Ambassador Program**

Jane Crowley provided information and the following overview of the program. Jane proposed the program to Lora Lewis that can come out of the TBI federal grant. DPH and AI dupont Hospital entered into a contract. The program is designed to recruit parents or family members of pediatric TBI survivors for participation as Family Ambassadors who will outreach to provide information and coordination between medical and educational settings. Nine parents have been recruited as Family Ambassadors. Four training sessions of two hours each is provided to the Family Ambassadors.

The targeted efforts are for kids in the nation who have brain injuries—68% have concussions. There are no figures for Delaware because there is no surveillance. Ninety

percent of concussion diagnoses are made in the Emergency Department. So, this is going to be aimed at the eight hospital emergency departments in the state and the four to five hospital trauma departments. Ten percent of all kids seen at a hospital Emergency Department are diagnosed with brain injury/concussion. Brochures are being developed and we have received feedback from the medical community and consumers. The Ambassador Outreach has been divided into two major categories—medical and educational. Four general meetings have been held and video conferenced from the Nemours Foundation so the Kent and Sussex Counties individuals did not have to travel to New Castle County. Individual meetings have been held based on the people's identification of need

The aim is to have a better organizational at the medical level. In 2006, between the ages of 0-12, there were 8-12 admissions outside of the Christiana and A I DuPont hospitals. The kids are identified back in the school setting with a 504 plan. Jane, Wendy and Kyle have been trying to organize the educational structure from the top down. The outreach at the school levels is provided by the ambassadors to the school nurse, guidance counselor, in-service trainings and teacher levels. The outreach will be in a ten-minute DVD format which tracks the clinical story of a youngster through school. Jane added that ages 0-4 and 15-19 are the highest level of pediatric population to obtain a traumatic brain injury. Jane also added that 80% of kids with concussions recover within two months and that concussion treatment is different than other injuries or conditions. Right now the focus is the classroom settings from elementary to the high school levels. In November of 2007, year two of contract begins. Dan suggested that in year two (with additional funding), the Ambassador Program work with the BIAD and pass the process along to the BIAD. Dan added that you want this program to expand and to contact the New Jersey BIAD for program models. Collette and Jane will talk about additional beneficial information/literature for the BIAD. Jane will also send a final brochure to Kyle.

### **DDDS/DSAAPD MOU**

Kyle provided the Memorandum of Understanding between the DHSS Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) and the DHSS Division of Developmental Disabilities Services (DDDS). This is a result of the Acquired Brain Injury waiver being implemented by DSSAPD. The waiver has been submitted to CMS and will hopefully be implemented in December 2007. Waiver comments are going to be solicited in the October Registry of Regulations in which we will be asking Brian to review. Kyle noted that this is a final version of the MOU; but the waiver will not be implemented until December 2007. Therefore, Kyle asked if the BIC wanted to comment on the MOU.

Brian had the following comments: 1) the title is too generic. Brian recommends that at the end they add the title "Concerning Individuals with Brain Injury"; 2) the first page under B. Interagency Collaboration, a) after the word "individual", add "with an acquired brain injury"; 3) Section b) is too narrow of a scope for referrals. Dan recommends tracking the number of times the circumstances happen so that we know when the

referrals are being made back and forth and we can capture the reasons for that. Brian added that we will not know if this is working if there is no tracking.

Kyle added that on page 2, Section B.1.c) would benefit from clarification regarding the ages in which services may be provided by the respective Divisions.

Motion was made, seconded and approved to write a letter with the comments consistent with today's discussion. Linda Heller abstained.

### **DPH Consultant Contract and BIC Recommendations**

Kyle gave the following update on the hand-out in today's packet. This is the appendix to the contract between the Division of Public Health with the consultant. Brian, John, Lora and the consultant, Betsy Wheeler, met in July to go over the recommendations to the contract. Betsy agreed with the recommendations and was going to put them into a workplan by September. Lora added that as of today, she has not received the workplan from Betsy. Kyle added that currently some workgroups from this committee are being developed to discuss the TBI Registry and the Waiver for Kids and hope to meet by the middle of October. Lora added that she will prepare and provide a "service page".

### **Possible Year 2 Trainings**

In December, Jane and Dan will be providing two-hour training for the Delaware Athletic Trainers Association. Wendy, Jane and Kyle have had discussions with Martha Toomey from the Department of Education (DOE) to do a follow-up conference to the April 2007 conference. We were hoping to direct this to a target audience of school psychologists, school nurses and special ed directors. Wendy spoke with Martha and Martha said that we may need to "rethink" the follow-up training and that she and staff are looking for a different training. Brian asked if we could piggyback on another conference since there will be a captive audience. Kyle added that we have \$3,500 to be used by March 31, 2008. Jane added that we may want to go to a district level (e.g. Brandywine or Indian River). Lora said that you could buy educational information to distribute also. Jane added that maybe we could go to some professional associations such as guidance counselors or nurses. Al Rose added that there will be a Coordinating Council conference on April 16, 2008 at AI Dupont—this may be a good idea for the next year of the contract.

### **Follow-up to the June Peachtree Tour**

Kyle reported that, in June, several BIC members received a tour and presentation of services of Peachtree Acres. It was suggested that we extend an invitation to a resident to participate in the BIC. Brian suggested that we send them our agenda and minutes to keep them posted on what the BIC is doing. Kyle added that some of the residents may need a higher level of nursing care than can be provided. In addition, staff may need training on community-based services options. Dan added that some Peachtree residents

he spoke with could live in a less restricted environment if Delaware had the systems, regulations and funding to do so. Lora added that when she writes the year three grant and after, we need to be in a position to know what we are going to do with the grant money. Lora and Dan will meet and discuss ways to develop better models and what funding mechanism is needed.

## **ANNOUNCEMENTS**

Lora provided materials from a Grantee conference—How to Develop a Communications Campaign; Raising Awareness of TBI Issues and Returning to Work after TBI—which could be shared with others. Dan added that there is a system in DE for providing residential programs for people with developmental disabilities that is very well established that is run through this type of program - it could be established for people with TBI in Delaware as well. Dan added that there is a service delivery in Delaware now that is working.

Lora added that the Action Plan of 1998 needs to be updated. In November of 2008, Lora will need help in writing a 3-7 year grant. Dan suggested that we have a sub-group that will help Lora with this grant. Dan agreed to chair the sub-group. Dan added that community residential living options are needed.

## **ADJOURNMENT**

The meeting was adjourned at 3:45 pm.

Respectively submitted,

Kyle Hodges  
SCPD Administrator